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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,413	07/25/2006	Jakob Gerrit Nijboer	NL 040129	1739

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EXAMINER
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ORTIZ CRIADO, JORGE L

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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10/05/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,413	<b>Applicant(s)</b> NIJBOER ET AL.	
	<b>Examiner</b> JORGE L. ORTIZ CRIADO	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 6-8 and 10-11, 14-15, 16-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 6 recites the limitation “referencing each of said signals” and the examiner cannot find where in the specification support for such “referencing” language is found. The specification provides no explanation for any “referencing signals”. This limitation is considered new matter and claims 7, 8 and 14-16 fall together for the same reasons.

In claims 10, 11, 14, 15, 18 and 19, the language of “explicitly identifies said one of at least one area” or “implicitly identifies said one of at least one area” are recited. The examiner cannot find where in the specification such “explicitly” or “implicitly” identifications are found described. These limitations are considered new matter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim 1-8 and 10-19 are rejected under 35 U.S.C. 102 (e) as being anticipated by Takahashi et al. WO2004/059648.

As per claim 1, Takahashi et al discloses a record carrier (1) comprising at least one area (21/15; DMWA) for storing disc management information, said record carrier further comprising an area (14), associated with a first one of said at least one area, comprising signals indicating which of said at least one area for storing disc management information is in use, each of said signals being related to a corresponding one of said at least one area for storing disc management

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information (see Figs. 2, 5, 6, 8; corresponding description for the drawings; for example see page 27 line 16 to page 36 line 4).

As per claim 2, Takahashi et al discloses wherein the area comprising signals indicating which of said at least one area for storing disc management information is in use is located inside said a first one of said at least one area for storing disc management information (see #14; Fig. 2).

As per claim 3, Takahashi et al discloses wherein the area comprising signals indicating which of said at least one area for storing disc management information is in use is located adjacent to said first one of said at least one area for storing disc management information (see #14; Fig. 2).

As per claim 4, Takahashi et al discloses wherein the signals indicating which of said at least one area for storing disc management information is in use are clusters on said record carrier (1 block; see page 29, lines 10-11), said clusters comprising marks for indicating a first status of said areas for storing disc management information and comprising no marks for indicating a second status of said areas for storing disc management information (see Figs. 6, 8; page 28 lines 9-20; page 29 lines 10-20).

As per claim 5, Takahashi et al discloses the first status indicates that a corresponding area of said at least one area for storing disc management information is in use (See for instance

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and for example le Fig. 8 (a), DMWA # 1, and the second status indicates that the areas for storing disc management information are not in use (DMWA#2).

As per claim 6, is drawn to the method of recording the above record carrier having limitations similar to the ones treated above, and is rejected for the same reasons of anticipation (see Fig. 5 process of how the areas are found and retrieved).

As per claim 7, Takahashi et al discloses wherein the step of accessing the area comprising signals indicating which of said at least one area for storing disc management information are in use consist referencing to a predefined location on the record carrier (see Fig. 6).

As per claim 8, Takahashi et al discloses wherein the step of retrieving the disc management information comprises retrieving pointer information from a predefined location in the determined last area for storing disc management information in use, and subsequently retrieving the disc management information by using said pointer information (see Fig. 5; step #602; 603).

As per claims 10, 11, 14, 15, Takahashi et al discloses "explicitly" identifies said first one of at least one area (as provided by the search in for example step 601 of Fig. 5) and "implicitly" identifies said first one of at least one area (as provided by the search jumping to a boarder between the recorded and unrecorded area of Fig. 6).

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As per claims 12, 13 and 16, Takahashi et al discloses whether the first one of said at least one area and the area comprising the signals are contained at a “known region” of said record carrier (see Fig. 2; known regions defined; for instance and one possible example Lead-in region).

Claims 17-19, recites limitations similar to the ones treated above and are rejected for the same reasons of anticipation.

### *Response to Arguments*

Applicant's arguments filed 06/01/2009 have been fully considered but they are not persuasive.

Applicant argues that Takahashi et al. fails to disclose any association of the DMW's in the form of an area, associated with a first one of said at least one area, comprising signals indicating which of said at least one area for storing disc management information is in use, each of said signals being related to a corresponding one of said at least one area for storing disc management information.

The examiner cannot concur with the Applicant because as claimed, Takahashi et al clearly discloses “an area” 14 “that is associated” and corresponding with every at least **one** area 21/15; DMWA, which is for disc management information. Area (14) comprising signals indicating that such area for defect management information is in use, since the

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recording/reproducing apparatus obtains latest DMWA by the associating it's corresponding area

14. Takahashi et al clearly specifies that recorded area 14, which when recorded implies having such signals that defines neighboring areas between the recorded latest DMWA (in use) and unrecorded DMWA (not in use). Contrary to Applicant's assertion, Takahashi et al do in fact discloses in forma of an area associated because also area 14 contains the defect list positional information for each of its corresponding DMWA.

### ***Closing Comments/Remarks***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US. Patent. No. 5,706,271 teaches a record carrier comprising at least one area for storing disc management information, said record carrier further comprising an area, associated with a first one of said at least one area, comprising signals indicating which of said at least one area for storing disc management information is in use, each of said signals being related to a corresponding one of said at least one area for storing disc management information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JORGE L. ORTIZ CRIADO whose telephone number is (571)272-7624. The examiner can normally be reached on Mon.-Fri 10:00 am- 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jorge L Ortiz-Criado/  
Primary Examiner, Art Unit 2627